

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Michael H. Yam,
Petitioner-Appellant,

v.

Cedar Rapids City Board of Review,
Respondent-Appellee.

ORDER

Docket No. 09-101-1210
Parcel No. 15182-78003-00000

On January 4, 2010, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The appellant, Michael H. Yam, requested the appeal be considered without hearing and submitted evidence in support of his petition. The Board of Review designated Cedar Rapids City Attorney, Jim Flitz, as its legal representative. It submitted evidence and also certified its record. The Appeal Board now having examined the entire record, and being fully advised, finds.

Findings of Fact

Michael H. Yam, owner of property located at 4715 Keystone Ridge SE, Cedar Rapids, Iowa, appeals from the City of Cedar Rapids Board of Review decision reassessing his property. According to the property record card, the subject property consists of a one-story, frame dwelling having 2622 square feet of living area, full basement with 2000 square feet finished, and a 959 square-foot, attached garage. The dwelling was built in 2007 and sits on a 1+10 quality grade classification 1.019 acre site.

The real estate was classified as residential for the January 1, 2009, assessment and valued at \$612,267; representing \$96,000 in land value and \$516,267 in improvement value. Mr. Yam protested to the Board of Review on the grounds that the property's assessment is not equitable with the assessment of other like properties under Iowa Code section 441.37(1)(a); and that there had been a

downward change in value since the last assessment under section 441.37(1) and 441.35(3). In response to the protest, the Board of Review notified Yam the January 1, 2009, assessment would not be changed.

Yam then filed an appeal with this Board on the grounds of inequity and downward change. Mr. Yam seeks \$27,267 in relief. He values the property at \$585,000. We note that although Mr. Yam protested on downward change in value in an assessment year, this ground is akin to a challenge on market value.

Mr. Yam presented evidence of four properties that, in his opinion, are comparable to the subject property. However, we find no adjustments or calculations have been made to adjust the data to the subject property. Therefore, we cannot compare those properties to the subject property for equity purposes. One of these properties is a two-story, one is a partial assessment of new construction, and one has no basement finish. The remaining property is assessed at the same rate per square foot as the subject property.

Mr. Yam also provided an appraisal report prepared by Dale W. Morrison of Morrison Appraisals, Cedar Rapids, Iowa. Mr. Morrison's opinion of value for the subject property was \$585,000. The appraisal is dated June, 2009.

Additionally to support his claims, Yam submitted an April 2009 newspaper article from the *Cedar Rapids Gazette* titled "Assessors Valuations Won't Change Much." In this article, Mr. Yam points out that Linn County Assessor, Julie Kester, states that residential property valuation is 95.1 percent of sales figures for 2008. We find this information is not relevant to Yam's appeal because his property is located in the City's assessing jurisdiction, which is separate from the Linn County Assessor's jurisdiction.

Tomas Lee, Deputy Assessor, submitted evidence on behalf of the Board of Review. The Board of Review asserts that Mr. Yam failed to provide evidence that the subject property's

assessment was not equitable with other property in the district. It submitted thirteen comparable properties it considers comparable to Yams that range in assessed value from \$173 per square foot to \$306 per square foot, with a median of \$247 per square foot. The subject property is at \$234 per square foot, which is below the median dollar per square foot.

The Board of Review also asserts the four properties provided by Yam as comparables are not, in fact, comparable for the following reasons:

1. 4703 Keystone Ridge SE is a 2-story dwelling while the subject is a 1-story dwelling.
2. 4902 Keystone Ridge SE has no basement finish while the subject has 2000 square feet of basement finish.
3. 2818 Cornerstone C. SE is assessed at \$243 per square foot while the subject is assessed at \$234.
4. 2824 Cornerstone Ct. SE is new construction and was not complete and, therefore, the assessment is a partial value at approximately 80% complete for the January 1, 2009, assessment.

The Board of Review submitted six property sales located in the area of the subject property. These properties are similar to the subject property, and the subject property is assessed within the parameters of similar properties that have sold. It also notes the subject property sold in July of 2008 for \$625,000, just prior to the January 1, 2009, assessment.

The Board of Review points out that the Morrison appraisal was for the purposes of mortgage underwriting and intended for use by Wells Fargo Equity. The appraisal is dated as of June 2009, and used two 2009 sales after the January 1, 2009, assessment date. The sales used by Morrison after adjustments, range from \$190 per square foot to \$266 per square foot. The subject property is assessed for \$234 per square foot, and still within the value range of the comparables.

City Rapids City Board of Review submitted sales ratio information that calculates a sales median ratio of 98.9% and comments that the *Gazette* article submitted by Yam was for Linn County,

not the City. This Board finds that the sales ratio study has no bearing on this equity claim. In fact, a claim of downward trend or over-assessment would not be supported if the ratio was 98.9%.

Mr. Yam contends his property is inequitably assessed. But we find he did not provide sufficient evidence to prove his claim. Additionally, Mr. Yam contended there had been a downward trend in value of his property. As we have noted, this claim in an assessment year is akin to a claim the property is assessed for more than authorized by law. Mr. Yam submitted an appraisal that was done for mortgage purposes, however, it is reflective of an appraisal date six months after the assessment date. The fact that the appraisal was for another purpose does not exclude the appraisal as evidence to the market value of the subject property. However, the fact that the appraisal does not reflect the assessment date as of January 1, 2009, and used two sales after the assessment date to determine the estimate of value, makes the appraisal less reliable for the purposes of protesting ad valorem.

Reviewing all the evidence, we find the comparables submitted by Mr. Yam did not prove the January 1, 2009, assessment as inequitable. Further, we find the evidence submitted by the Board of Review to be the best evidence and supports that the assessment falls within the range of value of like property in the area.

Conclusions of Law

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determined anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all

of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.* 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. Iowa Code section 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sales prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

Mr. Yam first challenged his assessment based on inequity. To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The six criteria include evidence showing

"(1) that there are several other properties within a reasonable area similar and comparable... (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination."

Id. at 579-580. The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). We find no evidence in the record to suggest the property is inequitably assessed.


Mr. Yam also challenged the assessment on the basis that there had been downward change in value of the property. In a re-assessment year, a challenge based on downward change in value is akin

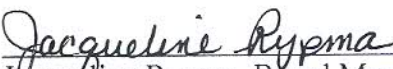
to a market value claim. *See Dedham Co-op. Ass'n. v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006). In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.27(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekoloo v. Bd. of Review of the City of Clinton*, 529 NW2d 275, 277 (Iowa 1995). As stated in the findings, although the mortgage appraisal may be indicative of the market value of the subject property, because it was completed with an effective date six months after the assessment date, we decline to solely rely on it in the absence of other evidence of market value. Further, the sales provided by the Board of Review appear to support the assessed value of the subject property.


We, therefore, affirm the Michael H. Yam property assessment as determined by the Board of Review. The assessment of the subject property as of January 1, 2009, is \$612,267; representing \$96,000 in land value and \$516,267 in dwelling value.

THE APPEAL BOARD ORDERS that the January 1, 2009, assessment as determined by the Cedar Rapids City Board of Review is affirmed.

Dated this 5 day of February, 2010.


Richard Stradley, Presiding Officer


Jacqueline Rypma, Board Member


Karen Oberman, Board Chair

Copies to:

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>2-5</u> , 2010.	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	